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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/582,735

03/13/2007

Michael Powers

VEC-138-B (RUS0143)

5019

29296 7590 11/24/2009  
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EXAMINER

ROSATI, BRANDON MICHAEL

ART UNIT

PAPER NUMBER

3744

MAIL DATE

DELIVERY MODE

11/24/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/582,735	<b>Applicant(s)</b> POWERS ET AL.	
	<b>Examiner</b> BRANDON M. ROSATI	<b>Art Unit</b> 3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 10-12 and 14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-12 and 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

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### **DETAILED ACTION**

1. This action is in response to the amendment filed on 8/14/2009. Currently, claim 13 has been canceled and claims 10-12 and 14 are pending.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 10-12 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 10, in lines 20-21, it is unclear how "the plurality of tubes pass through the plurality of slots and maintain the tank foot in place." It seems that the combination of the slots with the **collars** are what maintain the tank foot in place, which is how the Examiner is interpreting the claim for the purposes of this examination. Appropriate correction is required and no new matter should be entered.

Claims 11, 12, and 14 are rejected as being dependent from rejected independent claim 10.

#### ***Claim Objections***

4. Claim 14 is objected to because of the following informalities: Claim 14 depends from canceled claim 13. Since the limitations of claim 13 have been incorporated into claim 10, the Examiner will treat claim 14, for the purposes of this examination, as being dependent from claim 10. Appropriate correction is required.

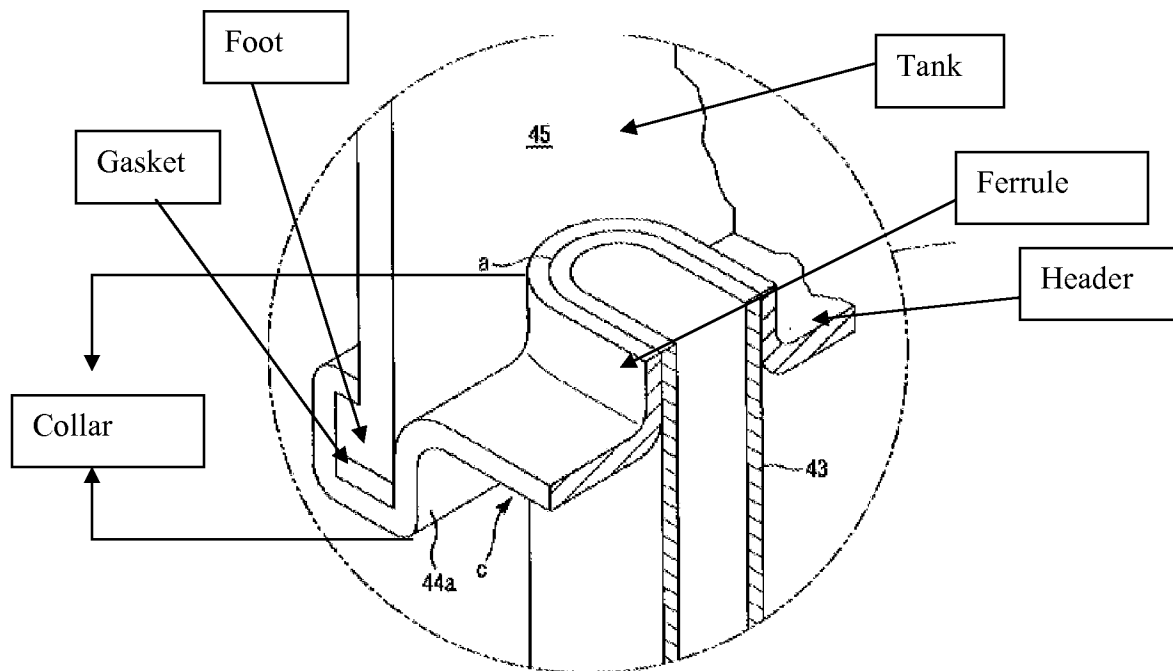
***Claim Rejections - 35 USC § 102***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 10 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Dey et al. (U.S. Pub. No. 2003/0217838).

Regarding claim 10, Dey et al. disclose in Figures 4, 6b and 6c, a headering arrangement comprising a heat exchanger body (i.e. core) (23), a heat exchanger tank (45), a header (see Figure below), a plurality of tubes (43) extending from the heat exchanger body, a header pan (see Figure below), disposed at an end of the plurality of tubes, wherein the header pan has a plurality of slots, is flat, and defines a plurality of collars (see Figure below), each collar forming a ferrule surrounding and in contact with a respective one of the plurality of tubes, a tank foot, at the end of the heat exchanger part, a gasket (see Figure below), wherein each slot is formed with a respective one of the plurality of collars to accept a respective tube, the tubes pass through the slot and the slot and collar maintain the tank foot in place, and the plurality of collars are inverted in relation to a line of extension of the plurality of tubes. It is noted that the phrases "for a heat exchanger" and "for use in automotive application" are statements of intended use and the device is capable of performing the functions.

Regarding claim 14, Dey et al. disclose a gasket (see Figure below) which is essentially flat.



***Claim Rejections - 35 USC § 103***

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
8. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dey et al. (U.S. Pub. No. 2003/0217838).

Regarding claim 11, Dey et al. disclose a tube having a length that appears to be of less than or about twice the thickness of the header plus tank foot width of the header, but fails to disclose the exact dimensions of the tube or header. Although the exact dimensions are not given, it is obvious from Figure 2 that tube has a length of less than or about twice the thickness of the header plus tank foot width of the header. Furthermore, it is an obvious mechanical expedient to one of ordinary skill in the art to utilize a tube having a length of less than or about twice the thickness of the header plus tank foot width of the header because doing so will ensure

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a properly functioning tube as well as minimizes the amount of material needed to be used to maximize cost.

Regarding claim 12, Dey et al. disclose the header pan (see Figure above) comprising at least one flat medallion. It is noted that since the header pan of Dey is relatively flat, it therefore has a flat medallion. Furthermore, because the Examiner is examining the final product (i.e. the header pan), the steps utilized to make the final product, such as pressing, which is referred to as a medallion are given limited patentable weight in a an apparatus claim.

### ***Response to Arguments***

9. Applicant's arguments with respect to claims 10-12 and 14 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRANDON M. ROSATI whose telephone number is (571)270-3536. The examiner can normally be reached on Monday-Friday 8:00am- 4:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler or Frantz Jules can be reached on (571) 272-4834 or (571) 272-6681. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BMR  
11/17/2009

/Cheryl J. Tyler/  
Supervisory Patent Examiner, Art Unit  
3744